

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

NOBILIS HEALTH CORP., *et al.*,¹

Debtors.

Chapter 7

Case No. 19-12264 (CTG)
(Jointly Administered)

ALFRED T. GIULIANO, in his capacity as
Chapter 7 Trustee for the jointly administered
bankruptcy estates of Nobilis Health Corp., *et al.*,

Plaintiff,

v.

HARRY J. FLEMING, *et al.*,

Defendants.

Adv. Pro. No. 23-50486 (CTG)

**AMENDED² NOTICE OF APPEAL AND STATEMENT OF ELECTION
RELATED TO ORDER DISMISSING ADVERSARY PROCEEDING**

Notice is hereby given that, pursuant to 28 U.S.C. § 158, Federal Rules of Bankruptcy Procedure 8001, 8002, and 8002, and Rule 8003-1 of the Local Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, Plaintiff Alfred T. Giuliano, Chapter 7 Trustee for the jointly administered bankruptcy estates of the above-captioned Debtors (“Plaintiff” or the “Trustee”), hereby appeals to the United States District Court for the District of Delaware from the United States Bankruptcy Court for the District of Delaware’s Order Dismissing Adversary Proceeding [Adv. D.I. 44] (the “Order”), entered on June 12, 2024.

¹ Debtors are: Northstar Healthcare Holdings, Inc., Case No. 19-12262; Northstar Healthcare Acquisitions, L.L.C., Case No. 19-12263; and Nobilis Health Corp., Case No. 19-12264.

² Amended to correct counsel to Appellee, Defendant, Harry J. Fleming and counsel’s new firm affiliation.

Part 1: Identify the appellant(s)

1. Name of Appellant: Alfred T. Giuliano, Chapter 7 Trustee
2. Position of Appellant in the bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- ☒ Plaintiff (Alfred T. Giuliano, Chapter 7 Trustee)
☐ Defendant
☐ Other (describe)

For appeals in a bankruptcy case and not in an adversary proceeding.

- ☐ Debtor
☐ Creditor
☐ Trustee
☐ Other (describe)

Part 2: Identify the subject of this appeal

1. Describe the judgment or the appealable order or decree from which the appeal is taken:

Order Dismissing Adversary Proceeding [Adv. D.I. 44] (the “Order”) and accompanying Memorandum Opinion and Proposed Findings of Fact and Conclusions of Law [Adv. D.I. 43] (the “Opinion”).

A copy of the Order is attached hereto as Exhibit “A”.

A copy of the Opinion is attached hereto as Exhibit “B”.

2. State the date on which the judgment, order, or decree was entered:

The Order was entered on June 12, 2024.

The Opinion was entered on June 12, 2024.

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment or the appealable order or decree from which the appeal is taken and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

- | <u>Party:</u> | <u>Attorney:</u> |
|--|---|
| 1. <u>Appellant</u> : Plaintiff, Alfred T. Giuliano, Chapter 7 Trustee | John T. Carroll, III (DE Bar No. 4060)
Cozen O'Connor
1201 North Market Street
Suite 1001
Wilmington, DE 19801
Tel: (302) 295-2028
Fax: (302) 295-2013
jcarroll@cozen.com

Steven M. Coren (<i>pro hac vice</i>)
Benjamin M. Mather (<i>pro hac vice</i>)
Janice D. Felix (<i>pro hac vice</i>)
Coren & Ress, P.C.
Two Commerce Square
2001 Market Street
Suite 3900
Philadelphia, PA 19103
Tel: (215) 735-8700
Fax: (215) 735-5170
scoren@kcr-law.com
bmather@kcr-law.com
jfelix@kcr-law.com |
| 2. <u>Appellees</u> : Defendants, Harry J. Fleming, P. David Young, and Brandon Moreno | Edward Jason Dennis
Kent D. Krabill
Leo Park
Lynn Pinker Hurst & Schwegmann
2100 Ross Avenue
Suite 2700
Dallas, TX 75201
Tel: (214) 981-3800
Fax : (214) 981-3839
jdennis@lynnllp.com
kkrabill@lynnllp.com
lpark@lynnllp.com |

Mark L. Desgrosseilliers
Chipman Brown Cicero & Cole, LLP
Hercules Plaza
1313 North Market Street
Suite 5400
Wilmington, DE 19801
Tel: (302) 295-0191
Fax : (302) 295-0199
desgross@chipmanbrown.com

3. Appellee: Defendant, Harry J. Fleming

Paul R. Genender
Jake R. Rutherford
Paul Hastings, LLP
2001 Ross Avenue
Suite #700-168
Dallas, TX 75230
Tel: 972-936-7500
Fax: 972-936-7370
paulgenender@paulhastings.com
jakerutherford@paulhastings.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☒ Appellant elects to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

Dated: June 20, 2024

Respectfully submitted,

/s/ John T. Carroll, III
John T. Carroll, III (DE Bar No. 4060)
COZEN O'CONNOR
1201 North Market Street
Suite 1001
Wilmington, DE 19801
Tel: (302) 295-2028
Fax: (302) 295-2013
jcarroll@cozen.com

-and-

Steven M. Coren, Esq. (*pro hac vice*)
Benjamin M. Mather, Esq. (*pro hac vice*)
Janice D. Felix (*pro hac vice*)

COREN & RESS, P.C.

Two Commerce Square
2001 Market Street, Suite 3900
Philadelphia, PA 19103

Tel: (215) 735-8700

Fax: (215) 735-5170

scoren@kcr-law.com

bmather@kcr-law.com

jfelix@kcr-law.com

Counsel for Appellant
Plaintiff, Alfred T. Giuliano
Chapter 7 Trustee